

LINDA SOMERS SMITH, ESQ., SBN 125542  
ADAMSKI MOROSKI MADDEN CUMBERLAND & GREEN LLP  
*Mailing Address:* Post Office Box 3835  
San Luis Obispo, CA 93403-3835  
*Physical Address:* 6633 Bay Laurel Place  
Avila Beach, CA 93424  
Telephone: (805) 543-0990; facsimile: (805) 543-0980  
Email: lss@ammcglaw.com

Attorneys for Claimant, LAND GORILLA, INC.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

SiWELL, INC., DBA CAPITAL MORTGAGE  
SERVICES OF TEXAS

Plaintiff

v.

LAND GORILLA, INC.  
(fka Land Gorilla, LLC)

Defendant.

Civil Action No. 5:19-cv-00025-C

**DECLARATION OF ATTORNEY  
LINDA SOMERS SMITH IN  
SUPPORT OF ATTORNEYS' FEES  
AND COSTS OF DEFENDANT LAND  
GORILLA, INC. AS PREVAILING  
PARTY IN ARBITRATION**

I, LINDA SOMERS SMITH, declare:

1. I am a partner in the law firm of Adamski Moroski Madden Cumberland & Green LLP, counsel of record for Land Gorilla, Inc. I have personal knowledge of the facts set forth in this declaration and, if called upon to testify to same, I could and would do so.

2. I have been practicing law in California for 35 years, admitted in 1986, and am currently a member in good standing of the State Bar of California. For 23 of those years, I have practiced law in San Luis Obispo County. I am a business, contract and transaction attorney with experience in contract disputes, and provide primary counsel service to Land Gorilla, Inc. (formerly known as Land Gorilla, LLC).

3. My billing rate for all work done post arbitration on this case was \$385.00 per hour, which is reasonable for an attorney within the geographical area in which I practice and

1 where services were provided and well below other geographical areas in California.

2 4. Billing rates of associates who worked on this matter range from \$185.00 per  
3 hour to \$245.00 per hour, depending on experience, which amounts are reasonable in the  
4 geographical area where the services were provided.

5 5. The Billing rate for the paralegal who worked on this matter post arbitration  
6 was \$160.00, based on experience and set based on rates in the geographical area where the  
7 services were provided.

8 6. Post-arbitration fee motions submitted to the Arbitrator included declarations  
9 from third party attorneys in the geographical areas in support of the reasonableness of fees  
10 billed by the undersigned and staff.

11 7. The attorneys' fees and costs in this matter since September 2, 2021, when the  
12 Hon. Melinda A. Johnson (Ret.) issued the Arbitration Award, involve time spent on the award,  
13 contacting opposing counsel for enforcement, reviewing enforcement procedures, and  
14 coordinating and supplementing research for filings by Texas counsel with regard to Ex Parte  
15 Motion to Reopen and an Application to Confirm Arbitration Award and for Entry of Judgment.

16 8. Attached as Exhibit A is a true and correct copy of documentation of the  
17 attorneys' fees and other costs incurred to date by Land Gorilla, Inc. to Adamski Moroski  
18 Madden Cumberland & Green LLP for post-arbitration legal work in this matter in the amount of  
19 \$2,496.17.

20 9. I personally reviewed all of the documentation attached as Exhibit A, which  
21 includes the attorneys' fees and costs billed in this matter which were incurred post-arbitration  
22 regarding attempted enforcement and the filing with Texas counsel since September 2, 2021.  
23 Such bills do not include attorneys' fees for costs incurred prior to September 2, 2021, or  
24 calculated in the Arbitrator's Award.

25 10. The Exhibit A invoices contain the description of work, with billing rate per  
26 timekeeper supporting work done with regard to the post-arbitration work, all of which is  
27 recoverable as time related to the enforcing the arbitration award.

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1 I declare under penalty of perjury under the laws of the State of California that the  
2 foregoing is true and correct. Executed this 7<sup>th</sup> day of December, 2021, at Avila Beach,  
3 California.

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5 *Linda Somers Smith*  
6 LINDA SOMERS SMITH  
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EXHIBIT A  
AMMCG Invoices  
(attached)

Post Office Box 3835  
San Luis Obispo, CA 93403-3835

Phone (805) 543-0990 Fax: (805) 543-0980

1318-002 LSS

December 7, 2021

Land Gorilla  
Attn: Sean Faries, CEO  
1241 Johnson Avenue #154  
San Luis Obispo, CA 93401

For Services Rendered and Costs Incurred Through December 7, 2021

*In Reference To:* SiWell Arbitration

*Invoice #:*

**PROFESSIONAL SERVICES:**

			<u>Hrs/Rate</u>	<u>Amount</u>
9/2/2021	MP	Review Final Award from Judge Johnson for CMS arbitration;	0.40	\$64.00
		exchange emails with Attorney L. Somers Smith regarding same	\$160.00/hr	
9/3/2021	LSS	Review arbitration final award and email and call to opposing	0.20	\$77.00
		counsel on payment expectations	\$385.00/hr	
10/4/2021	JMG	Prepare draft petition to compel arbitration; conferences with Smith	1.30	\$422.50
		regarding same; review contract and federal court ruling regarding	\$325.00/hr	
10/5/2021	JMG	Conference and correspondence with Texas counsel regarding	0.30	\$97.50
		petition to confirm arbitration	\$325.00/hr	
10/7/2021	JMG	Correspondence with Attorney M. Hood regarding arbitration award	0.10	\$32.50
			\$325.00/hr	
10/8/2021	JMG	Correspondence from Attorney J. Herman regarding arbitration	0.10	\$32.50
		enforcement	\$325.00/hr	
10/11/2021	LSS	Call from Attorney J. Herman's office, review options for recovery of	0.50	\$192.50
		attorney fees for perfecting arb award in Texas; discuss same with	\$385.00/hr	
10/12/2021	MCB	Attorney S. Adamski and assign Attorney M. Boneso research		
		Review correspondence from Linda Somers Smith; research case	3.10	\$573.50
		law regarding arbitration proceedings and contract provisions;	\$185.00/hr	
		research case law regarding a prevailing party's award of attorney's		
		fees and costs; draft correspondence to Linda Somers Smith		
		regarding the same		
12/6/2021	LSS	Review filings to reopen Texas Federal Case and review and revise	1.50	\$577.50
		filings with comments and additional citations; email documents and	\$385.00/hr	
		redline to Attorney J. Herman's office		
12/7/2021	MP	Draft and finalize Declaration of Attorney Linda Somers Smith	1.00	\$160.00
		regarding post-arbitration fees and costs	\$160.00/hr	
<b>For Professional Services Rendered</b>			<b>8.50</b>	<b>\$2,229.50</b>

**COSTS INCURRED:**

			<u>Qty/Price</u>	
10/31/2021	LB	Internet Legal Research	1	266.67
		October activity	266.67	

<b>Total Costs</b>	<b>Amount</b>
	<b>\$266.67</b>
	<b>Amount</b>
<b>For Professional Services Rendered</b>	<b>8.50 \$2,496.17</b>

**Timekeeper Summary**

<u>Name</u>	<u>Hours</u>	<u>Amount</u>
George, Joshua M.	1.80	\$585.00
Somers Smith, Linda	2.20	\$847.00
Boneso, Maggie C.	3.10	\$573.50
Perrin, Michele	1.40	\$224.00

INVOICES ARE DUE UPON RECEIPT AND ARE SUBJECT TO  
INTEREST CHARGES 30 DAYS FROM DATE OF INVOICE

*PLEASE INDICATE INVOICE NUMBER ON YOUR REMITTANCE CHECK. THANK YOU.*